

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Policies and Rules Implementing  
the Telephone Disclosure and  
Dispute Resolution Act

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CC Docket No. 93-22

DOCKET FILE COPY ORIGINAL

COMMENTS OF THE  
AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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October 11, 1994

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**COMMENTS OF THE  
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The American Public Communications Council ("APCC") submits the following comments in response to the Commission's Order on Reconsideration and Further Notice of Proposed Rule Making ("Notice") in these proceedings, released August 31, 1994.

APCC supports the Commission's proposals to tighten its "pay-per-call" rules in order to prevent fraud and abuse by information service providers. APCC is concerned, however, that the Commission's proposals may still leave loopholes that information providers ("IPs") will seek to exploit.

APCC has two principal concerns. First, the Commission's proposed amendment to Section 64.1501 of its rules would require that "presubscription or comparable arrangements" must be in writing unless they involve a "credit or charge card" that is both "(i) generally available for the purchase of consumer goods, entertainment, travel, and lodging, and (ii) subject to the dispute

resolution procedures of the Truth in Lending Act and Fair Credit Billing Act, as amended, 15 U.S.C. § 1601 et seq." Notice, Appx. C.

APCC strongly supports the intent of this proposed amendment, to "prevent IPs from creating instant 'presubscription' by immediately issuing to a caller either a PIN or a "credit" card that is billed on a monthly telephone bill and usable for purchasing information services from the particular IP." Notice, ¶ 29. However, we are concerned that the wording of the proposed rule may not necessarily have the desired effect. An IP might argue that its "instant" calling card is "generally available" (emphasis added) for purchasing consumer goods, entertainment, travel, etc. even though it is in fact accepted only for the purchase of the particular form of entertainment offered by the IP.

In order to avoid unnecessary and protracted disputes over the scope of "availability" of an "instant" calling card APCC urges the Commission to add a third clause to its proposed Section 64.1501(b)(5), requiring that a "presubscription arrangement" that is not in writing must also be:

(iii) not billed to any subscriber on (or mailed to the subscriber in the same envelope with) any local exchange carrier's bill for local exchange telephone service.

This will more effectively ensure that any "instant" credit card which is issued for the purpose of accessing IP offerings under the guise of being a "generally available" credit card does not receive

the benefit of billing on a local exchange telephone company's monthly telephone bill.<sup>1</sup> The change will not burden any legitimate provider of generally available and generally accepted credit cards, such as American Express, Mastercharge, or Visa, because charges to those cards are billed on the American Express, Mastercharge, or Visa bill and not on a local exchange carrier's telephone bill.

APCC's second concern is with the growing problem, alluded to in the Notice, of offering information services in connection with calls to international telephone numbers. Notice, ¶ 27, n. 36. APCC is receiving increasing complaints from its members about being billed for information services that are accessed using international numbers. Some of these complaints involve access to "dial-a-porn" information services by means of 10XXX codes, in apparent violation of industry standards governing interexchange carrier responses to originating line screening codes. For example, an APCC member was recently billed for calls to a Vancouver, Canada telephone number with the digits 604-290-0622. When this number is called, a tape recording states:

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<sup>1</sup> The rule might also be strengthened by adding the words "and generally accepted" to clause (i) of Section 64,1501(b)(5), so that that clause reads: "generally available and generally accepted for the purchase of consumer goods, entertainment, travel, and lodging." However, this change would not completely eliminate disputes over what is "generally available and generally accepted." Therefore, APCC believes the additional clause described in the text should be added as well.

You have reached Conversations Plus. To complete the call, hang up and dial 10658-0 plus the number you just dialed.

Dialing 10658-0-604-290-0622 then connects the caller to the dial-a-porn service. As shown in Attachment 1, the caller was billed by ONCOR Communications, Inc., as if the call had been a direct-dialed call. The charges billed are approximately \$4.00 per minute. ONCOR also billed calls to other numbers in a similar fashion. These calls were billed to the originating payphone line even though the APCC member's payphones are subscribed to originating line screening.

Because the Commission's existing and proposed rules focus primarily on the use of 800 numbers, there may be disputes over whether those rules reach similarly abusive billing practices, such as those described above, which involve calls dialed using 10XXX codes. Therefore, APCC urges the Commission to amend its rules to ensure that the restrictions that apply to 800 numbers also apply to the use of 10XXX numbers.<sup>2</sup>

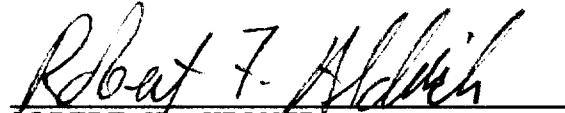
Finally, to prevent operator service providers ("OSPs") or other parties with access to LEC billing from abusing their relation, the Commission should require any party submitting bills to a LEC for billing to an end user to certify that all billing is consistent with the billing and screening restrictions associated

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<sup>2</sup> To the extent ANI is available with 950-XXXX, the rules should cover 950-XXXX dialing.

with the ANI being billed. Failure to so certify or falsely certifying should be a rule violation.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert F. Aldrich", is written over a horizontal line.

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October 11, 1994

# ONCOR

BILLING NUMBER 803 M36-3803 333  
BILLING PERIOD SEP 8.1994 00002  
PAGE 285

## CHARGES FOR EARNING NUMBER 803 232-8141

### ITEMIZED CALLS

#### THIRD NUMBER CALLS FOR 803 232-8141

BILLED ON BEHALF OF ONCOR									
DATE	TIME	TO PLACE	TO NUMBER	FROM PLACE	FROM NUMBER	RC	MIN	TXC	
1.AUG 5	517P	VANCOUVER BC	604 895-3035	GREENVILLE SC	803 232-8141	DS	1		3.995
2.AUG 5	522P	TORONTO ON	416 412-8266	GREENVILLE SC	803 232-8141	DS	7		27.935
3.AUG 16	725A	VANCOUVER BC	604 895-3035	GREENVILLE SC	803 232-8141	NS	5		19.955
4.AUG 18	457P	TORONTO ON	416 412-8266	GREENVILLE SC	803 232-8141	DS	8		31.925
5.AUG 20	155P	TORONTO ON	416 412-8266	GREENVILLE SC	803 232-8141	DS	7		27.935
6.AUG 20	1107P	VANCOUVER BC	604 290-0622	GREENVILLE SC	803 232-8141	NS	5		19.955
SUBTOTAL THIRD NUMBER CALLS FOR 803 232-8141							131.675		

#### INTERNATIONAL CALLS FOR 803 232-8141

BILLED ON BEHALF OF ONCOR									
DATE	TIME	TO PLACE	TO NUMBER	FROM PLACE	FROM NUMBER	RC	MIN	TXC	
7.AUG 16	725A	VANCOUVER BC	604 895-3035	GREENVILLE SC	803 232-8141	NP	5		19.95
8.AUG 18	457P	TORONTO ON	416 412-8266	GREENVILLE SC	803 232-8141	DP	8		31.92
9.AUG 20	155P	TORONTO ON	416 412-8266	GREENVILLE SC	803 232-8141	DP	7		27.93
10.AUG 20	1107P	VANCOUVER BC	604 290-0622	GREENVILLE SC	803 232-8141	NP	5		19.95
SUBTOTAL INTERNATIONAL CALLS FOR 803 232-8141							99.75		

TOTAL ITEMIZED CALLS FOR 803 232-8141 31.925

TOTAL ITEMIZED CALLS FOR EARNING # 803 232-8141 31.925

TOTAL FOR EARNING NUMBER 803 232-8141 . . . . . 31.925

# ONCOR

BILLING NUMBER 803 M38-3803 333  
BILLING PERIOD SEP 8.1994 00002  
PAGE 287

## CHARGES FOR EARNING NUMBER 803 295-9428

### ITEMIZED CALLS

#### INTERNATIONAL CALLS FOR 803 295-9428

DATE	TIME	TO PLACE	TO NUMBER	FROM PLACE	FROM NUMBER RC	MIN	TXC	
15.AUG 15	725A	VANCOUVER BC	604 895-3035	GREENVILLE SC	803 295-9428 NP	2		7.98
16.AUG 22	703P	VANCOUVER BC	604 290-0622	GREENVILLE SC	803 295-9428 EP	12		47.88
17.AUG 25	435P	VANCOUVER BC	604 290-0622	GREENVILLE SC	803 295-9428 DP	7		27.93
18.AUG 25	445P	VANCOUVER BC	604 290-0622	GREENVILLE SC	803 295-9428 DP	13		51.87
19.AUG 30	524P	VANCOUVER BC	604 895-3035	GREENVILLE SC	803 295-9428 DP	5		19.95
20.SEP 1	514P	WELLANDPT ON	416 386-6969	GREENVILLE SC	803 295-9428 DP	9		35.91
21.SEP 8	444P	TORONTO ON	416 444-2222	GREENVILLE SC	803 295-9428 DP	8		31.92
TOTAL INTERNATIONAL CALLS FOR 803 295-9428								229.44

TOTAL ITEMIZED CALLS FOR EARNING # 803 295-9428 229.44

TOTAL FOR EARNING NUMBER 803 295-9428 . . . . . 223.44



# ONCOR

BILLING NUMBER 803 M36-3803 333  
BILLING PERIOD SEP 8, 1994 00002  
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## CHARGES FOR EARNING NUMBER 803 299-9105

### ITEMIZED CALLS

#### THIRD NUMBER CALLS FOR 803 299-9105

DATE	TIME	TO PLACE	TO NUMBER	FROM PLACE	FROM NUMBER RC	MIN	TXC	
22.AUG	4	727A VANCOUVER BC	604 895-3035	GREENVILLE SC	803 299-9105 NS	8		31.925
SUBTOTAL THIRD NUMBER CALLS FOR 803 299-9105								31.925

#### INTERNATIONAL CALLS FOR 803 299-9105

BILLED ON BEHALF OF ONCOR								
DATE	TIME	TO PLACE	TO NUMBER	FROM PLACE	FROM NUMBER RC	MIN	TXC	
23.AUG	15	500P VANCOUVER BC	604 895-3035	GREENVILLE SC	803 299-9105 DP	9		35.91
24.AUG	19	514P TORONTO ON	416 412-8224	GREENVILLE SC	803 299-9105 DP	9		35.91
25.AUG	24	733A VANCOUVER BC	604 895-3035	GREENVILLE SC	803 299-9105 NP	8		31.92
26.AUG	25	512P VANCOUVER BC	604 290-0622	GREENVILLE SC	803 299-9105 DP	11		43.89
27.AUG	29	554P VANCOUVER BC	604 895-3035	GREENVILLE SC	803 299-9105 DP	11		43.89
SUBTOTAL INTERNATIONAL CALLS FOR 803 299-9105								191.52

TOTAL ITEMIZED CALLS FOR 803 299-9105 159.60

TOTAL ITEMIZED GALLS FOR EARNING # 803 299-9105 159.60

TOTAL FOR EARNING NUMBER 803 299-9105 . . . . . 159.60

10/07/94  
03/23/1994

10:22  
04:09

PAY TEL COMUNICA → 202 789 1158  
/04/354606 IPI OF S.CAROLINA

NO. 355 005  
PAGE 05

# ONCOR

BILLING NUMBER 803 M36-3803 333  
BILLING PERIOD SEP 8, 1994 00002  
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## CHARGES FOR EARNING NUMBER 803 646-8103

### ITEMIZED CALLS

#### THIRD NUMBER CALLS FOR 803 646-8103

DATE	TIME	TO PLACE	TO NUMBER	FROM PLACE	FROM NUMBER RC	MIN	TXC	
28.AUG	3	122P VANCOUVER BC	604 895-3035	PENDLETON SC	803 646-8103 DS	5		19.95
SUBTOTAL THIRD NUMBER CALLS FOR 803 646-8103								19.95

#### INTERNATIONAL CALLS FOR 803 646-8103

BILLED ON BEHALF OF ONCOR

DATE	TIME	TO PLACE	TO NUMBER	FROM PLACE	FROM NUMBER RC	MIN	TXC	
29.AUG	15	800A VANCOUVER BC	604 895-3035	PENDLETON SC	803 646-8103 DP	4		15.96
30.AUG	18	113P TORONTO ON	416 412-8266	PENDLETON SC	803 646-8103 DP	7		27.93
SUBTOTAL INTERNATIONAL CALLS FOR 803 646-8103								43.89

TOTAL ITEMIZED CALLS FOR 803 646-8103 23.94

TOTAL ITEMIZED CALLS FOR EARNING # 803 646-8103 23.94

TOTAL FOR EARNING NUMBER 803 646-8103 23.94